

FREQUENTLY ASKED QUESTIONS FOR DISABILITY RETIREMENT

Important: *These frequently asked questions provide a general summary of certain features of disability retirement benefits payable from the Maryland State Retirement and Pension System ("SRPS"). SRPS is governed by law, including Division II of the State Personnel and Pensions Article of the Annotated Code of Maryland, and Title 22 of the Code of Maryland Regulations. If there is a conflict between the law and these frequently asked questions, the law prevails.*

*These frequently asked questions **do not apply** to the Judges' Retirement System or the Legislative Pension Plan. For information regarding disability benefits that may be available from one of these Systems, please contact 1-800-492-5909 or 410-625-5555.*

What is a disability retirement?

Disability retirement is a benefit provided by the Maryland State Retirement and Pension System ("SRPS") for eligible members who are found to be totally and permanently disabled and incapacitated for the further performance of their normal job duties.

Are there different types of disability retirement?

There are two types of disability retirement, *ordinary* and *accidental* (*special* disability for members of the State Police Retirement System).

Ordinary Disability applies when an eligible member is totally and permanently physically or mentally incapacitated for the further performance of the normal duties of the member's position.

Accidental Disability applies when an eligible member is totally and permanently incapacitated for the further performance of the normal duties of the member's position, and the disability is the "natural and proximate" result of an accident that occurred in the actual performance at a definite time and place without willful negligence by the member. For the State Police and Law Enforcement Officers' Pension (LEOPS) Systems, the eligible member must be totally and permanently incapacitated for the further performance of the normal duties of the member's position, arising out of and in the course of the actual performance of duty without willful negligence by the member.

Who may apply?

For purposes of applying for disability benefits, retirement law provides that an individual who is a member of one of the systems that is a part of SPRS may file an ordinary disability claim if the member has at least five years of eligibility service. There is no service requirement for members to apply for accidental or special disability retirement.

Only a member may file for disability retirement. If you retire or withdraw your contributions, your membership ends and you are no longer eligible to file for disability retirement.

For purposes of filing a disability claim, membership ends:

Five years after separating from employment (leaving payroll), if you are a member of the Teachers' Retirement System; or

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Four years after separating from employment (leaving payroll), if you are a member of the Correctional Officers' Retirement System, Employees' Retirement System, Employees' Pension System, Law Enforcement Officers' Pension System, State Police Retirement System, or Teachers' Pension System.

Is it possible to apply for disability after membership has ended?

Not if you have already retired or withdrawn your accumulated contributions. However, if your membership has lapsed because of the length of time that has passed since you left payroll, it is possible that you may be able to apply within 24 months after your membership ended (only 12 months for the Teachers' Retirement System). To be eligible to apply, you must prove to the satisfaction of the Medical Board that your mental or physical incapacitation was the sole reason that you failed to file while a member.

Do I have the option to apply for accidental/special disability only?

No. If you request accidental/special disability only, but have the required five years of eligibility service, your claim will be evaluated for both ordinary and accidental/special disability. In every disability claim, an applicant must prove that he or she is totally and permanently disabled for the further performance of his or her normal job duties and should be retired. By submitting a disability claim, you are certifying that you are mentally and physically incapacitated for the further performance of your job duties, your disability is likely to be permanent, and you should be retired.

Will my employer be notified if I apply for disability and if I am awarded disability?

Yes. When you submit a disability claim, you will need to notify your employer and request that your employer submit certain required information regarding your position that is necessary to process your disability claim, such as your current job description and your attendance records.

Retirement law requires that the SPRS notify your employer if you are granted disability benefits. State employees should take note of personnel regulations of the Department of Budget and Management which provide that, "if an employee is approved for disability retirement by the Maryland State Retirement Agency, unless the employee resigns or is removed earlier, the employee shall be considered resigned from State service as of the 120th day after the approval." COMAR 17.04.03.16E.

Are there any additional application deadlines for accidental disability?

Members of the Employees' Retirement System, Employees' Pension System, Teachers' Retirement System and Teachers' Pension System who are applying for accidental disability retirement **must file** within five years of the date of the accident.

How do I file a claim for disability retirement?

CLAIM FORMS ARE REQUIRED TO FILE. You may order forms to be mailed to your home, or you may print the forms by accessing the agency website at www.sra.maryland.gov.

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To order forms, simply dial 410-625-5555 or toll-free 1-800-492-5909 and select option 3 (for current or vested members) to request forms. If you need additional assistance in requesting forms, stay on the line to speak with a Retirement Benefits Specialist during the business hours of 8:30am to 4:30pm weekdays. The automated telephone system provides 24-hour access to forms.

To print forms, access the agency website at www.sra.maryland.gov. Go to:
Participants>Members>Forms>Downloads>Printable Forms>Disability Application

What forms are required?

Complete the following forms:

- Form 20 – Statement of Disability, with physician's section completed, and medical documentation
- Form 129 – Preliminary Application for Disability Retirement
- Form 21 – Application for an Estimate of Disability Retirement Allowance
- Form 22 – Application for an Estimate of Disability Retirement Allowance (State Police)
- Form 100 – Application for an Estimate of Disability Retirement Allowance (LEOPS)

What other information is required with the completed forms?

You must submit:

- Medical records pertaining to your disability. The Maryland State Retirement Agency is not responsible for obtaining medical records. Refer to Page 5 of Form 20 for the list of medical records that may be submitted. You are responsible for any cost associated in obtaining these records.
- Job description signed and dated by the supervisor or Retirement Coordinator.
- First Report of Injury - for accidental/special disability (as submitted to employer).
- Copies of all forms submitted to the Workers' Compensation Commission and all orders or awards issued by the Commission for each accident.
- Any determinations by the Social Security Administration.
- Any other pertinent information requested by the Disability Unit or the Medical Board.

Where do I send my forms?

Forms should be mailed to:

Maryland State Retirement Agency
Disability Unit
120 E. Baltimore Street, 14th Floor
Baltimore, MD 21202

YOUR CLAIM WILL NOT BE PROCESSED UNLESS ALL REQUIRED FORMS AND INFORMATION ARE RECEIVED.

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An applicant who, at the time of submission of the Statement of Disability (Form 20) fails to request accidental disability retirement or fails to identify a work-related accident, may not later request accidental disability retirement or submit a new claim for accidental disability retirement based on a work-related accident that took place before the date the Statement of Disability (Form 20) was submitted.

Can a member with a potentially terminal medical condition receive an expedited review?

We make every effort to expedite claims submitted by members with potentially terminal medical conditions. Forms can be faxed to the attention of the Disability Unit at 410-468-1659 or 410-468-1707. Form 129 must be notarized, so please ensure that the notary seal is a stamp, not an embossed seal if faxed.

Is the documentation required from a member with a potentially terminal medical condition different?

No. The documentation required is the same.

If I am unable to apply for my disability benefits, can anyone apply on my behalf?

For members other than the State Police and Teachers' Retirement or Pension Systems, if a member is unable to apply, a member's department head (the individual who has the power to make appointments and terminate employment with regard to the member's position) may apply for disability retirement for the member. If a member of the Teachers' Pension System or Teachers' Retirement System is unable to apply for disability retirement, the member's State or county superintendent may file for the member. The Secretary of the State Police may apply for disability retirement for a member of the State Police Retirement System under some circumstances. For State Police disability retirements, please call and speak with a Retirement Benefits Specialist to clarify the criteria that must be satisfied.

Once my forms have been submitted, what is the next step?

Once the disability application has been submitted, the Maryland State Retirement Agency will perform an administrative review. If the Agency determines that all of the documentation necessary to support your claim has been received, you will be informed in writing that your claim is ready to begin the medical evaluation phase of the disability claims process. **The general claims process will not begin unless all required forms and medical and additionally requested documentation has been received.**

What happens if I do not submit the required forms or follow all required deadlines?

An applicant must diligently pursue a claim. The claim will be closed and the application will be returned if the applicant:

- Does not provide the Maryland State Retirement Agency with any information or documentation requested by the Agency or the Medical Board within 45 days of the date of the request.

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- Does not agree to report for an independent medical evaluation. (See page 5 – What happens if an IME is requested?)
- Fails to report for a scheduled independent medical evaluation, and does not request a postponement at least 5 business days before the date of the evaluation.
- If the Board of Trustees' awards the applicant a disability retirement, and the applicant fails to accept a disability retirement or a service retirement within 120 days of the date of the Board of Trustees' award.

What happens when my claim goes before the Medical Board?

Retirement law requires that a Medical Board review the claim information and determine if a claimant is permanently and totally disabled from performing the normal duties of the claimant's job.

What happens if an independent medical evaluation (IME) is requested by the Medical Board?

The Agency will schedule the claimant to be evaluated by a medical practitioner who is not the claimant's treating physician and is retained to provide an independent medical opinion. The claimant is notified of the appointment time and is asked to contact the Maryland State Retirement Agency to confirm. This evaluation is conducted at the expense of the Agency.

What happens if the claimant fails to go to the IME?

If a claimant fails to report for a scheduled IME, and did not request a postponement at least 5 business days before the date of the evaluation, the disability claim will be terminated, the Retirement Agency will close the claimant's file, and the disability claim will be terminated.

When disability claims are recommended for approval, what is the next step?

Recommendations for approval are sent to the Board of Trustees for approval at their next scheduled meeting.

What recourse do I have if the Medical Board recommends denial of my claim?

The claimant may request a reconsideration of the claim within 30 days of the date of the Disability Unit's notice of the Medical Board's recommended denial.

How do I request a reconsideration of my disability claim?

The applicant may request not more than one reconsideration of the Medical Board's recommendation by submitting a written request for reconsideration, along with any additional supporting medical documentation, within 30 days of the date of the Disability Unit's notice of denial. If the applicant does not submit a written request for reconsideration within 30 days of the date of the Disability Unit's notice, the applicant will not have any further right to reconsideration and the file will be closed.

If any part of the claim (ordinary disability, accidental/special disability) is denied after reconsideration, what happens next?

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The claimant is advised that he/she has the right to request an appeal and have a hearing before an Administrative Law Judge. To appeal the denial of a disability retirement, an applicant shall file a written request for a hearing not later than 30 days after the Disability Unit's notice. If the applicant has been granted an ordinary disability retirement but denied an accidental/special disability retirement, in addition to requesting a hearing within 30 days, the applicant must also accept an ordinary disability or a service retirement within 120 days after the Disability Unit's notice, or the applicant's file will be closed, and the claim will be terminated.

What happens when I request an appeal?

Once the claimant has submitted a written request for an appeal within the required 30 days, a hearing is scheduled before an administrative law judge at the Office of Administrative Hearings. A letter is sent to the claimant and/or the claimant's attorney advising them of the hearing date, the issues to be presented, claimant's rights at the hearing, hearing procedures, the names of the agency witnesses, and postponement procedures. Hearings are scheduled in the order that the requests are received. Please be advised, the *average* timeframe to have a hearing scheduled once requested is 6-8 months. Under unusual circumstances it may take longer.

May I represent myself or must I be represented by an attorney?

An applicant may represent oneself at a hearing, or may be represented by an attorney who is licensed to practice law in Maryland.

What are the next steps if the claim is denied after the administrative hearing?

The claimant may file written exceptions within 15 days of the date of the administrative law judge's proposed decision. An exceptions hearing will also be scheduled, regardless of whether the claimant submits written exceptions.

What happens at an Exceptions Hearing?

The Exceptions Hearing will be scheduled before the Board of Trustees, at which time the Board of Trustees will consider the administrative record and the proposed decision. The claimant will be notified of the date, time and place. At the exceptions hearing, the claimant or claimant's attorney may present argument to the Board of Trustees, and an attorney representing the Agency will also present argument. Following the exceptions hearing, the Board of Trustees will issue notice of its decision on the appeal.

If the Board of Trustees issues a final decision denying a claim for disability retirement, the claimant will be notified of the right to seek judicial review of the decision in accordance with the Maryland Administrative Procedures Act (State Government Article, §10-222, Annotated Code of Maryland).

How long does the disability process take?

Ordinary disability cases can take up to 6 months. Accidental or special disability applications may take longer. Requests for Reconsideration or the appeal process can extend the timeline by an additional 6 to 8 months or longer.

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How soon after the Board of Trustees' review will I be notified of the status of my case?

A letter will be mailed after the Board of Trustees' monthly meeting, generally the third Tuesday of each month. Information about the status of a case may not be provided over the telephone.

If I am approved, how do I find out what my benefit will be?

We will provide an estimate of your disability benefit if you have been approved by the Board of Trustees. This calculation normally takes 2 to 3 weeks. Please refer to your most recent Personal Statement of Benefits for a general estimate of disability benefits.

I am approved, what do I do next?

- (1) When a claim is approved, a letter is sent to the member advising that he/she has 120 days from the date of the letter to accept the disability retirement. If a member fails to properly complete and submit the required forms and retire within 120 days of notification, Maryland regulations provide that the Maryland State Retirement Agency close the file, terminate the claim, and the member will not be entitled to disability retirement benefits.
- (2) To actually accept an approved disability retirement and begin receiving disability benefits, the following forms must be submitted:

For State Police

- a. Form 24 – Application for Disability Retirement (married officers must select the Basic Allowance on this form).
- b. Form 4 – Designation of Beneficiary if selecting option 1 or 4 and designating multiple beneficiaries.
- c. Proof of Birth of beneficiary if selecting options 2, 3, 5 or 6.
- d. Form 128 – Reemployment After Retirement.
- e. Form 85 – Direct Deposit/Electronic Fund Transfer Sign-up Form.
- f. Form 766 – Federal & State Tax Withholding Request.

For Law Enforcement Officers' Pension Plan (LEOPS)

- a. Form 101 – Application for Disability Retirement (married officers must select the Basic Allowance on this form).
- b. Form 4 – Designation of Beneficiary if selecting option 1 or 4, and designating multiple beneficiaries.
- c. Proof of Birth of beneficiary if selecting options 2, 3, 5 or 6.
- d. Form 131 – Reemployment After Retirement.
- e. Form 85 – Direct Deposit/Electronic Funds Transfer Sign-up Form.
- f. Form 766 – Federal & State Tax Withholding Request.

For all other Systems:

- a. Form 23 – Application for Disability Retirement.
- b. Form 4 – Designation of Beneficiary if selecting option 1 or 4 and naming multiple beneficiaries.
- c. Proof of Birth of beneficiary if selecting options 2, 3, 5 or 6.

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- d. Form 127 – Reemployment After Retirement.
- e. Form 85 – Direct Deposit/Electronic Funds Transfer Sign-up Form.
- f. Form 766 – Federal & State Tax Withholding Request.

What if I do not accept an award of disability retirement?

If you do not retire within 120 days of written notice from the disability unit, under the Board of Trustees' regulations, your disability file will be closed, your claim will be terminated, and you will not be entitled to disability retirement benefits.

State employees should also take note of personnel regulations of the Department of Budget and Management which provide that, "if an employee is approved for disability retirement by the Maryland State Retirement Agency, unless the employee resigns or is removed earlier, the employee shall be considered resigned from State service as of the 120th day after the approval." COMAR 17.04.03.16E.

How does Workers' Compensation affect my disability?

For all state employees regardless of the system, and for all members of the Teachers' Retirement and Teachers' Pension Systems, if you are awarded workers' compensation benefits, your accidental or special disability retirement benefits may be subject to a reduction. Your disability benefits will be reduced by the amount of any related workers' compensation benefits paid or payable after the effective date of your retirement.

When will my disability retirement benefits begin?

For members who purchase service for the period of a qualified Board approved leave of absence, the effective date of retirement will be the later of:

- (1) The date designated on the Application for Disability Retirement;
- (2) The day following the expiration date of the qualified approved leave where the leave period expired prior to the Board's approval of the disability retirement;
- or
- (3) The first day of the month following the Board's approval of the disability retirement when the qualified leave period has not expired.

For all other members, the effective date of retirement will be the later of:

- (1) The first day of the month following the last day on payroll as certified by the applicant's employer;
- (2) The date your Statement of Disability and Preliminary Application is received; or
- (3) The first day of the month when the applicant desires to retire as set forth on the Application for Disability Retirement.

When can I expect to receive my first retirement check?

Typically, it takes 30 – 45 days to pay the benefit after a final retirement application is received in good order. FIRST PAYMENT MAY BE A CHECK until the direct deposit has been established.

For additional information, go to SRA.MARYLAND.GOV to view two webinars: Overview of Disability Retirement and Filing for Disability Retirement.